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7 **UNITED STATES DISTRICT COURT**

8 EASTERN DISTRICT OF CALIFORNIA
9

10 LOUIS J. MOORE,

11 Plaintiff,

12 v.

13 CALIFORNIA CORRECTIONAL
14 INSTITUTION,

15 Defendant.

Case No. 1:23-cv-00892-BAM (PC)

ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN DISTRICT JUDGE TO
ACTION

FINDINGS AND RECOMMENDATIONS TO
DISMISS ACTION, WITH PREJUDICE, FOR
FAILURE TO STATE A CLAIM, FAILURE
TO OBEY COURT ORDER, AND FAILURE
TO PROSECUTE

(ECF No. 22)

FOURTEEN (14) DAY DEADLINE

19 **I. Background**

20 Plaintiff Louis J. Moore (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma*
21 *pauperis* in this civil rights action under 42 U.S.C. § 1983.

22 On November 3, 2025, the Court screened the first amended complaint and found that it
23 failed to comply with Federal Rule of Civil Procedure 8 and failed to state a cognizable claim
24 under 42 U.S.C. § 1983. (ECF No. 22.) The Court issued an order granting Plaintiff leave to file
25 a second amended complaint or a notice of voluntary dismissal within thirty (30) days. (*Id.*) The
26 Court expressly warned Plaintiff that the failure to comply with the Court’s order would result in
27 a recommendation for dismissal of this action, with prejudice, for failure to obey a court order
28 and for failure to state a claim. (*Id.*) Plaintiff failed to file an amended complaint or otherwise

1 communicate with the Court, and the deadline to do so has expired.

2 **II. Failure to State a Claim**

3 **A. Screening Requirement**

4 The Court is required to screen complaints brought by prisoners seeking relief against a
5 governmental entity and/or against an officer or employee of a governmental entity. 28 U.S.C.
6 § 1915A(a). Plaintiff's complaint, or any portion thereof, is subject to dismissal if it is frivolous
7 or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary
8 relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915A(b).

9 A complaint must contain "a short and plain statement of the claim showing that the
10 pleader is entitled to relief . . ." Fed. R. Civ. P. 8(a)(2). Detailed factual allegations are not
11 required, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere
12 conclusory statements, do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (*citing Bell*
13 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). While a plaintiff's allegations are taken as
14 true, courts "are not required to indulge unwarranted inferences." *Doe I v. Wal-Mart Stores, Inc.*,
15 572 F.3d 677, 681 (9th Cir. 2009) (internal quotation marks and citation omitted).

16 To survive screening, Plaintiff's claims must be facially plausible, which requires
17 sufficient factual detail to allow the Court to reasonably infer that each named defendant is liable
18 for the misconduct alleged. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss v. U.S. Secret*
19 *Serv.*, 572 F.3d 962, 969 (9th Cir. 2009). The sheer possibility that a defendant acted unlawfully
20 is not sufficient, and mere consistency with liability falls short of satisfying the plausibility
21 standard. *Iqbal*, 556 U.S. at 678 (quotation marks omitted); *Moss*, 572 F.3d at 969.

22 **B. Plaintiff's Allegations**

23 Plaintiff is currently housed in Ironwood State Prison ("ISP") in Blythe, California.
24 Plaintiff alleges the events in the complaint occurred while he was housed at California
25 Correctional Institution in Tehachapi, California and at Ironwood State Prison. Plaintiff names as
26 defendants: (1) the California Correctional Institution ("CCI"), (2) Dr. Hill, (3) CC3 Welch, (4)
27 Alt.CP. Welch, (5) H. Moseley, signed off on grievance, (6) Dr. Farinas, surgeon ISP outpatients
28 clinic in Blythe, (7) Dr. Haung-Lee K. AI., M.D. (8) C. Rojas, reviewing authority.

1 In claim 1, Plaintiff alleges violations of the Eighth Amendment for medical care. Plaintiff
 2 alleges as follows.¹ He has the right to feel safe and have medical care that is best for him. The
 3 operation with the less intrusive cuts is best for black people because they have more scar tissue
 4 and they gave Plaintiff the cheapest with the most damage. Plaintiff still is not fully recovered.
 5 Dr. Hill requested surgery. Welch refused the doctor's request and transferred Plaintiff. Moseley
 6 C. Motlooo2 signed off on the 602 grievance. Dr. Farinas did the inferior surgery. It was most
 7 intrusive. Dr. Haung-Lee is the one who told Plaintiff black people have more scar tissue than
 8 others. The surgery Dr. Hill requested cost more and with little cutting, small incisions and with
 9 cameras. Dr. Farinas just cut Plaintiff stomach open damaging everything in the path causing
 10 more damage to Plaintiff's intestines. Plaintiff still has bowel problems because of her methods
 11 and Plaintiff is black.

12 In claims 2, Plaintiff alleges violation of the Eighth Amendment for his cell assignment.
 13 Plaintiff alleges he was in a dorm and earned that right. They put him back to cell confinement as
 14 soon as Plaintiff arrived and Plaintiff was made to associate with whoever they chose. He is
 15 Christian and he has to associate with Muslem, Bloods, crips, gays. They did not give him single
 16 cell so whoever they put in the cell with Plaintiff, he is afraid of attack. Plaintiff was attacked in
 17 the county jail by a G crip who cut Plaintiff with a razor and others kicked and beat Plaintiff.
 18 This was at ISP. Plaintiff feels he has suffered for the transfer soon after they opened the yard
 19 back up. Plaintiff complains about being shuffled around the state to different institutions.

20 Plaintiff does not specify the remedies he wants.

21 **C. Discussion**

22 Plaintiff's complaint fails to comply with Federal Rule of Civil Procedure 8 and fails to
 23 state a cognizable claim under 42 U.S.C. § 1983.

24 **Federal Rule of Civil Procedure 8**

25 Pursuant to Rule 8, a complaint must contain "a short and plain statement of the claim
 26 showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a). Detailed factual allegations

27 ¹ The Court has not quoted the first amended complaint verbatim, but has attempted to make the
 28 allegations easier to understand.

1 are not required, but “[t]hreadbare recitals of the elements of a cause of action, supported by mere
 2 conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678 (citation omitted). Plaintiff must
 3 set forth “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on
 4 its face.’” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555). While factual allegations
 5 are accepted as true, legal conclusions are not. *Id.*; see also *Twombly*, 550 U.S. at 556–57; *Moss*,
 6 572 F.3d at 969.

7 As explained below, Plaintiff’s complaint fails to state a claim. Plaintiff was informed
 8 that he must set forth sufficient facts to support a cognizable claim as to each defendant.
 9 Plaintiff was informed that if Plaintiff files an amended complaint, it should be a short and plain
 10 statement of his claims and must include factual allegations identifying what happened, when it
 11 happened, and who was involved. Fed. R. Civ. P. 8. Plaintiff’s first amended is largely incoherent
 12 of possible violations of constitutional rights. The allegations are conclusory as to what happened
 13 and who was involved.

14 **Eleventh Amendment**

15 To the extent Plaintiff is claiming money damages against CCI for an Eighth Amendment
 16 claim, “[t]he Eleventh Amendment bars suits for money damages in federal court against a state,
 17 its agencies, and state officials acting in their official capacities.” *Aholelei v. Dep’t of Public
 18 Safety*, 488 F.3d 1144, 1147 (9th Cir. 2007). Indeed, the Eleventh Amendment prohibits federal
 19 courts from hearing a Section 1983 lawsuit in which damages or injunctive relief is sought against
 20 a state, its agencies (such as CDCR or CCI) or individual prisons, absent “a waiver by the state or
 21 a valid congressional override. . . .” *Dittman v. California*, 191 F.3d 1020, 1025 (9th Cir. 1999).
 22 “The Eleventh Amendment bars suits which seek either damages or injunctive relief against a
 23 state, ‘an arm of the state,’ its instrumentalities, or its agencies.” See *Fireman’s Fund Ins. Co. v.
 24 City of Lodi, Cal.*, 302 F.3d 928, 957 n.28 (9th Cir. 2002) (internal quotation and citations
 25 omitted), cert. denied, 538 U.S. 961 (2003). “The State of California has not waived its Eleventh
 26 Amendment immunity with respect to claims brought under § 1983 in federal court. . . .”
 27 *Dittman*, 191 F.3d at 1025–26 (citing *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 241
 28 (1985)); see also *Brown v. Cal. Dep’t. of Corrs.*, 554 F.3d 747, 752 (9th Cir. 2009) (finding

1 California Department of Corrections and California Board of Prison Terms entitled to Eleventh
2 Amendment immunity).

3 **Federal Rules of Civil Procedure 18 and 20**

4 To the extent Plaintiff is attempting to join unrelated claims, he is informed that he may
5 not join unrelated claims. Plaintiff may not bring unrelated claims against unrelated parties in a
6 single action. Fed. R. Civ. P. 18(a), 20(a)(2); *Owens v. Hinsley*, 635 F.3d 950, 952 (7th Cir.
7 2011); *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007); *Mackey v. Price*, 2020 WL 7319420,
8 at *3–4 (E.D. Cal. Dec. 11, 2020), report and recommendation adopted, 2021 WL 843462 (E.D.
9 Cal. Mar. 5, 2021). Plaintiff may bring a claim against multiple defendants so long as (1) the
10 claim arises out of the same transaction or occurrence, or series of transactions and occurrences,
11 and (2) there are commons questions of law or fact. Fed. R. Civ. P. 20(a)(2); *Coughlin v. Rogers*,
12 130 F.3d 1348, 1351 (9th Cir. 1997). The “same transaction” requirement refers to similarity in
13 the factual background of a claim. *Id.* at 1349. Only if the defendants are properly joined under
14 Rule 20(a) will the Court review the other claims to determine if they may be joined under Rule
15 18(a), which permits the joinder of multiple claims against the same party.

16 Plaintiff's first amended complaint joins claims which are unrelated. Plaintiff may not
17 bring claims for events arising at CCI and for events arising at Ironwood State Prison, against
18 different defendants, in the same action. Plaintiff is attempting to bring multiple claims that arose
19 from different and unrelated occurrences and different institutions. The claims are not related in
20 that they involve medical care and separately, housing at Ironwood State Prison. As Plaintiff is
21 attempting to bring multiple claims that arose from different and unrelated occurrences, his
22 complaint violates Federal Rules of Civil Procedure 18 and 20. The Court will not screen any
23 claim arising from any Defendants' conduct while at Ironwood State Prison. Further, claims
24 arising from conduct from defendants at Ironwood, is not properly venued in Eastern District of
25 California.²

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27 _____
28 ² If Plaintiff's main complaint is with the surgery, he is informed that Ironwood State Prison is
located in the Central District of California and his claim should be brought in that District.

1 Plaintiff was cautioned that he may not add new or different claims to the amended
2 complaint. Yet, Plaintiff added a new and different claim arising at Ironwood State Prison.

3 **State Actor**

4 The term “person[s]” in § 1983 encompasses state and local officials sued in their
5 individual capacities, private individuals, and entities which act under the color of state law—
6 including local governmental entities. *See Sutton v. Providence St. Joseph Medical Center*, 192
7 F.3d 826, 835 (9th Cir. 1999) (party charged with constitutional deprivation must be a
8 governmental actor because “§ 1983 excludes from its reach merely private conduct, no matter
9 how discriminatory or wrong”). “The traditional definition of acting under color of state law
10 requires that the defendant in a § 1983 action have exercised power possessed by virtue of state
11 law and made possible only because the wrongdoer is clothed with the authority of state law.”
12 *West v. Atkins*, 487 U.S. 42, 49 (1988).

13 Plaintiff cannot assert a § 1983 claim against private individuals Defendants Dr. Farinas
14 and Dr. Haung-Lee K. Al., M.D., unless he can plausibly allege the defendant was acting under
15 color of state law. The Supreme Court and the Ninth Circuit have recognized at least four tests
16 that facilitate identification of state action. Namely, “(1) public function; (2) joint action; (3)
17 governmental compulsion or coercion; and (4) governmental nexus.” *Rawson v. Recovery
Innovations*, 975 F.3d 742, 747 (2020) (quoting *Kirtley v. Rainey*, 326 F.3d 1088, 1092 (9th Cir.
18 2003)); *see Pasadena Republican Club v. W. Justice Ctr.*, 985 F.3d 1161, 1167 (9th Cir. 2021).
19 Satisfaction of any of the tests is enough to find state action, provided no “countervailing” factor
20 defeats a finding of state action. *Pasadena Republican Club*, 985 F.3d at 1167; *Rawson*, 975 F.3d
21 at 747. Regardless of the test, the question is simply always whether a defendant has exercised
22 power possessed and made possible because state law. *Pasadena Republican Club*, 985 F.3d at
23 1167.

25 Private doctors, nurses, and hospitals who have not assumed the State's obligation to
26 provide medical care to inmates, are not state actors just because they provide one-off medical
27 treatment to an inmate. *See, e.g.*, *West*, 487 U.S. at 51–54; *Calloway v. Youssee*, No. 1:21-CV-
28 01450 JLT BAM(PC), 2022 WL 1409838, at *7 (E.D. Cal. May 4, 2022), report and

1 recommendation adopted, No. 1:21-CV-01450 JLT BAM(PC), 2022 WL 2193458 (E.D. Cal.
2 June 17, 2022), as clarified on denial of reconsideration, No. 1:21-CV-01450 JLT BAM(PC),
3 2022 WL 2873090 (E.D. Cal. July 21, 2022); *Felix v. Casey*, No. 2:18-cv-3185-KJM-AC-P, 2021
4 WL 2209828, at *2 (E.D. Cal. June 1, 2021); *Probst v. Adams Cty. Sheriff's Dep't*, No. 1:20-cv-
5 00032-DCN, 2021 WL 1554064, at *3 (D. Idaho Apr. 19, 2021).

6 Dr. Farinas appears to have performed the surgery at a private hospital or clinic and may
7 be employed at the hospital. It is unclear who is defendant Dr. Haung-Lee K. AI., M.D. The
8 allegations are conclusory that any of these Defendants are state actors.

9 **Eighth Amendment**

10 A prisoner's claim of inadequate medical care constitutes cruel and unusual punishment in
11 violation of the Eighth Amendment where the mistreatment rises to the level of "deliberate
12 indifference to serious medical needs." *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006)
13 (quoting *Estelle v. Gamble*, 429 U.S. 97, 104 (1976)). The two-part test for deliberate
14 indifference requires Plaintiff to show (1) "a 'serious medical need' by demonstrating that failure
15 to treat a prisoner's condition could result in further significant injury or the 'unnecessary and
16 wanton infliction of pain,'" and (2) "the defendant's response to the need was deliberately
17 indifferent." *Jett*, 439 F.3d at 1096.

18 A defendant does not act in a deliberately indifferent manner unless the defendant "knows
19 of and disregards an excessive risk to inmate health or safety." *Farmer v. Brennan*, 511 U.S. 825,
20 837 (1994). "Deliberate indifference is a high legal standard," *Toguchi v. Chung*, 391 F.3d 1051,
21 1060 (9th Cir. 2004), and is shown where there was "a purposeful act or failure to respond to a
22 prisoner's pain or possible medical need" and the indifference caused harm. *Jett*, 439 F.3d at
23 1096. In applying this standard, the Ninth Circuit has held that before it can be said that a
24 prisoner's civil rights have been abridged, "the indifference to his medical needs must be
25 substantial. Mere 'indifference,' 'negligence,' or 'medical malpractice' will not support this
26 cause of action." *Broughton v. Cutter Labs.*, 622 F.2d 458, 460 (9th Cir. 1980) (citing *Estelle*,
27 429 U.S. at 105–06). Even gross negligence is insufficient to establish deliberate indifference to
28 serious medical needs. See *Wood v. Housewright*, 900 F.2d 1332, 1334 (9th Cir. 1990).

1 Further, a “difference of opinion between a physician and the prisoner—or between
2 medical professionals—concerning what medical care is appropriate does not amount to
3 deliberate indifference.” *Snow v. McDaniel*, 681 F.3d 978, 987 (9th Cir. 2012) (citing *Sanchez v.*
4 *Vild*, 891 F.2d 240, 242 (9th Cir. 1989)), overruled in part on other grounds, *Peralta v. Dillard*,
5 744 F.3d 1076, 1082–83 (9th Cir. 2014); *Wilhelm v. Rotman*, 680 F.3d 1113, 1122–23 (9th Cir.
6 2012) (citing *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1986)). Rather, Plaintiff “must
7 show that the course of treatment the doctors chose was medically unacceptable under the
8 circumstances and that the defendants chose this course in conscious disregard of an excessive
9 risk to [his] health.” *Snow*, 681 F.3d at 988 (citing *Jackson*, 90 F.3d at 332) (internal quotation
10 marks omitted).

11 Plaintiff’s complaint fails to state a claim for medical deliberate indifference. Plaintiff
12 fails to allege any individual defendant knew of and disregarded an excessive risk to his serious
13 medical need. Dr. Hill recommended surgery. Dr. Haung-Lee K. AI., M.D. told Plaintiff some
14 information. Welch transferred Plaintiff to another institution where Plaintiff received some
15 medical care. It is unclear what Welch, Dr. Hill or Dr. Haung-Lee K. AI., M.D. did or did not do
16 to violate Plaintiff’s constitutional rights. Plaintiff’s opinion as to the surgery performed by Dr.
17 Farinas, even if Dr. Farinas is a state actor, is merely a difference of opinion.

18 **Housing Assignment**

19 Plaintiff is informed that any claim premised on the failure to house Plaintiff at a
20 particular institution or in particular housing fails because Plaintiff is not entitled to be housed in
21 any particular institution. See *Olim v. Wakinekona*, 461 U.S. 238, 245 (1983); *Meachum v. Fano*,
22 427 U.S. 215, 225 (1976). In general, prison officials’ housing and classification decisions do not
23 give rise to federal constitutional claims encompassed by the protection of liberty and property
24 guaranteed by the Fifth and Fourteenth Amendments. *Montayne v. Haymes*, 427 U.S. 236, 242
25 (1976) (It is well settled that prisoners have no constitutional right to placement in any particular
26 prison, to any particular security classification, or to any particular housing assignment); *accord*
27 *King v. Lemos*, No. 1:20-CV-01837-NONE-BAM (PC), 2021 WL 2038187, at *6 (E.D. Cal. May
28 21, 2021).

1 **Processing of Appeals**

2 To the extent Plaintiff is complaining about the appeals process used by Defendant
 3 Moseley, or any defendant, Plaintiff is informed that he does not have a constitutionally protected
 4 right to have his appeals accepted or processed. *Ramirez v. Galaza*, 334 F.3d 850, 860 (9th Cir.
 5 2003); *Mann v. Adams*, 855 F.2d 639, 640 (9th Cir. 1988). The prison grievance procedure does
 6 not confer any substantive rights upon inmates and actions in reviewing appeals cannot serve as a
 7 basis for liability under section 1983. *See also Givens v. Cal. Dep't of Corrs. & Rehab.*, No. 2:19-
 8 cv-0017 KJN P, 2019 WL 1438068, at *4 (E.D. Cal. Apr. 1, 2019) (“California's regulations grant
 9 prisoners a purely procedural right: the right to have a prison appeal.”) Therefore, prison officials
 10 are not required by federal law to process inmate appeals or grievances in a particular way.
 11 Consequently, the failure or refusal to process a grievance or the denial, rejection, or cancellation
 12 of a grievance does not violate any constitutionally protected right. *See Rushdan v. Gear*, No.
 13 1:16-cv-01017-BAM (PC), 2018 WL 2229259, at *6 (E.D. Cal. May 16, 2018); *Givens*, 2019
 14 WL 1438068, at *4; *Valles v. Gamboa*, No. 1:22-CV-00355 BAM PC, 2022 WL 1294424, at *3-
 15 4 (E.D. Cal. Apr. 29, 2022) (no claim for failure to comply with timely processing requirements).

16 **III. Failure to Prosecute and Failure to Obey a Court Order**

17 **A. Legal Standard**

18 Local Rule 110 provides that “[f]ailure . . . of a party to comply with these Rules or with
 19 any order of the Court may be grounds for imposition by the Court of any and all sanctions . . .
 20 within the inherent power of the Court.” District courts have the inherent power to control their
 21 dockets and “[i]n the exercise of that power they may impose sanctions including, where
 22 appropriate, . . . dismissal.” *Thompson v. Hous. Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A
 23 court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action,
 24 failure to obey a court order, or failure to comply with local rules. *See, e.g., Ghazali v. Moran*, 46
 25 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
 26 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
 27 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987)
 28 (dismissal for failure to comply with court order).

1 In determining whether to dismiss an action, the Court must consider several factors:
 2 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its
 3 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 4 cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779
 5 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988).

6 **B. Discussion**

7 Here, Plaintiff's second amended complaint is overdue, and he has failed to comply with
 8 the Court's order. The Court cannot effectively manage its docket if Plaintiff ceases litigating his
 9 case. Thus, the Court finds that both the first and second factors weigh in favor of dismissal.

10 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal, since a
 11 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action.
 12 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against
 13 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d
 14 639, 643 (9th Cir. 2002). However, "this factor lends little support to a party whose
 15 responsibility it is to move a case toward disposition on the merits but whose conduct impedes
 16 progress in that direction," which is the case here. *In re Phenylpropanolamine (PPA) Products*
 17 *Liability Litigation*, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted).

18 Finally, the Court's warning to a party that failure to obey the court's order will result in
 19 dismissal satisfies the "considerations of the alternatives" requirement. *Ferdik*, 963 F.2d at 1262;
 20 *Malone*, 833 at 132–33; *Henderson*, 779 F.2d at 1424. The Court's November 3, 2025 screening
 21 order expressly warned Plaintiff that his failure to file an amended complaint would result in a
 22 recommendation of dismissal of this action, with prejudice, for failure to obey a court order and
 23 for failure to state a claim. (ECF No. 22.) Thus, Plaintiff had adequate warning that dismissal
 24 could result from his noncompliance.

25 Additionally, at this stage in the proceedings there is little available to the Court that
 26 would constitute a satisfactory lesser sanction while protecting the Court from further
 27 unnecessary expenditure of its scarce resources. As Plaintiff is proceeding *in forma pauperis* in
 28 this action, it appears that monetary sanctions will be of little use and the preclusion of evidence

1 or witnesses is likely to have no effect given that Plaintiff has ceased litigating his case.

2 **IV. Conclusion and Recommendation**

3 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a
4 District Judge to this action.

5 Furthermore, the Court finds that dismissal is the appropriate sanction and HEREBY
6 RECOMMENDS that this action be dismissed, with prejudice, for failure to state a claim
7 pursuant to 28 U.S.C. § 1915A, for failure to obey a court order, and for Plaintiff's failure to
8 prosecute this action.

9 These Findings and Recommendation will be submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
11 (**14**) **days** after being served with these Findings and Recommendation, the parties may file
12 written objections with the Court. The document should be captioned "Objections to Magistrate
13 Judge's Findings and Recommendation." **Objections, if any, shall not exceed fifteen (15) pages**
14 **or include exhibits. Exhibits may be referenced by document and page number if already in**
15 **the record before the Court. Any pages filed in excess of the 15-page limit may not be**
16 **considered.** The parties are advised that failure to file objections within the specified time may
17 result in the waiver of the "right to challenge the magistrate's factual findings" on
18 appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*,
19 923 F.2d 1391, 1394 (9th Cir. 1991)).

20
21 IT IS SO ORDERED.

22 Dated: December 16, 2025

23 /s/ *Barbara A. McAuliffe*
24 UNITED STATES MAGISTRATE JUDGE

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